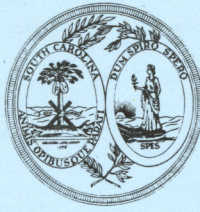


COMMISSIONERS
FREDERICK A. HOEFER, II, 6TH DISTRICT
CHAIRMAN
R. MARSHALL TALLEY, 5TH DISTRICT
VICE CHAIRMAN
CYNTHIA GRAHAM HOWE, 1ST DISTRICT
EDWARD E. DURYEA, 2ND DISTRICT



COMMISSIONERS
ROGER J. HARTMAN, 3RD DISTRICT
RAYMOND B. SMITH, 4TH DISTRICT
ADRIENE B. WRIGHT, MEMBER AT LARGE
H. BOWEN WOODRUFF, MEMBER AT LARGE

(803) 253-4192
FAX (803) 253-7539
5000 Thurmond Mall, Suite 250
P.O. Box 11926
Columbia, S.C. 29211

State of South Carolina State Ethics Commission

April - June 1995

NEWSLETTER

95-006

WELCOME TO OUR NEW COMMISSIONERS

Two new members have been appointed to serve on the Commission.

Richard Davis of Greenville received a Juris Doctor from the University of SC School of Law. He is a partner with the law firm of Christian & Davis in Greenville, SC. Mr. Davis is married to Theodosia M. Davis and they have one son. He will serve as a member at large on the Commission and replaces John S. Simmons. He will serve until June 30, 1996.

Mr. Frank Washington received a BA degree in Psychology from Allen University. He is a retired Chief Supervisor from the SC Department of Education and is currently a real estate sales representative with Ben Williams Realty. Mr. Washington is married to the former Vivian Wingard and they have three children. He will serve as a member at large and replaces Adriene B. Wright. Mr. Washington has been appointed to a five year term expiring on June 30, 2000.

We also want to congratulate current commissioners, Ray Smith and Ed Duryea who have been reappointed to serve on the commission with terms ending on May 31, 2000. Bowen Woodruff will serve a term expiring July 1, 1999.

We welcome our new and returning members to our staff.

INTERESTED PARTICIPANTS NEEDED

The Commission is drafting a new text of regulations to replace existing SC code regs. 52-1.1 et seq. (Law. Co-op. 1982). We invite any comments, ideas and suggestions you may have. Volunteers are also invited to participate as liaisons to the commission in accomplishing this very important work. Please direct

your comments to Kelly J. Golden, Legal Counsel, State Ethics Commission, PO Box 11926, Columbia SC 29211 or call Ms. Golden at (803) 253-4192 if you would like to work on a committee. All interested persons are invited to participate.

COMMISSION MEETING

The next Commission meeting will be held on July 19, at the State Ethics Commission, 5000 Thurmond Mall, Suite 250. Please call for time of meeting.

ATTENTION ALL CANDIDATES FOR PUBLIC OFFICES AND THOSE WITH ACTIVE CAMPAIGN ACCOUNTS! \$\$

If you are seeking a public office or have an active campaign account from a previous election, please remember the quarterly deadline for filing Campaign Disclosure Forms is on July 10. They must be *in our office* by 5:00 p.m. on July 10 to avoid any late filing penalties. If you need a Campaign Disclosure Form, you may contact your county clerk of court, or you may call this office with your request.

ANNUAL REPORTS AVAILABLE

Copies of the 1993-1994 Annual Reports are still available to anyone interested. If you wish to obtain a free copy of the Annual Report, please call (803) 253-4192 with your request.

TRAINING SESSIONS AVAILABLE

The staff members at the State Ethics Commission are available for training sessions on any questions or problems you may have on ethics. You may call the office at (803) 253-4192 for further information and to request and set up an appointment.

STATE ETHICS COMMISSION
ADVISORY BULLETIN

RE: REFUNDS
TO UNOPPOSED CANDIDATES, 1992

As a result of the South Carolina Supreme Court's decision in Paschal v. State Election Commission, Op. No. 24197, Filed February 13, 1995, the State Election Commission is refunding filing fees paid by unopposed candidates in the 1992 statewide primary elections. The Election Commission's refunds are being directed to the appropriate political party.

This advisory bulletin is issued to address the method of reporting receipt of these funds.

COMMITTEES

- ▶ A committee shall report receipt of refunded filing fees as follows.
 - ▶ Refunded filing fees which are retained by the political party must be reported by the party on a Campaign Disclosure Form if the funds are deposited to an account which receives contributions or from which expenditures are made to support or oppose candidates or ballot issues.
 - ▶ Funds retained in a party operating account which is not used to support or oppose candidates or ballot issues need not be reported.

CANDIDATES

- ▶ A candidate shall report receipt of refunded filing fees as follows:
 - ▶ If the candidate has closed his or her campaign account and the candidate paid the filing fee from his or her personal funds rather than by campaign contribution, then the candidate must report the receipt and distribution of the funds by writing the commission and notifying the commission of the refund and distribution to the candidate's personal use.
 - ▶ If the candidate has closed his or her

campaign account and the candidate paid the filing fee from campaign contributions, the candidate must open or re-open the campaign account, deposit the refund in same, disburse the filing fee in accordance with S.C.Code §8-13-1370 and report the disbursement on a Campaign Disclosure Form.

- ▶ If the candidate has an active campaign account and the filing fee was paid from campaign contributions, the refund deposit and disbursement must be reported on the next Campaign Disclosure Form.
-

Questions?

Please write to : State Ethics Commission, Campaign Reporting, Post Office Box 11926, Columbia, SC 29211 or call (803) 253-4192 and ask to speak to a campaign auditor.

CONSULTANT DISCLOSURE

The Ethics Reform Act of 1991 placed certain reporting requirements on consultants to public agencies. Consultants are defined in the Ethics Reform Act as persons, other than public officials, public members, or public employees who contract with public agencies to (1) evaluate bids for public contracts, or (2) award public contracts. Those consultants were required to file a Statement of Economic Interests, the same form as required of certain public officeholders.

H4070, which took effect on January 12, 1995, provided a change wherein those consultants are required to file a form disclosing information about their business interests. The State Ethics Commission developed the Consultant Disclosure Form for filing by these consultants. These consultants are required to file this form within twenty-one (21) days after entering into a contractual relationship with public agencies of the State or its political subdivisions. An update must be filed within ten (10) days from the date that the consultant knows or should have known of new economic interests in a business entity which had its bids evaluated or which was awarded the contract.

This Consultant Disclosure Form should be provided to any consultant who is contracted with to evaluate bids for public contracts or award public contracts. It should not be construed to apply to persons who provide consultant services such as management, training, or personnel when their function is not to evaluate bids for public contracts or award public contracts.

The forms may be obtained from the Commission office and may be duplicated.

SPEECHES GIVEN IN YOUR OFFICIAL CAPACITY

Public employees and officials are frequently called upon to give speeches in their official capacity. Usually, these speeches entail visits to civic or religious groups concerning some aspect of government or issues facing government. Occasionally, these speeches may be made to professional organizations and may entail travel and lodging expenses. The State Ethics Commission is often questioned as to whether any thing may be accepted for giving such speech.

Section 8-13-715 of the Ethics Reform Act prohibits the acceptance of anything of value for speaking before any private or public group when the official or employee is speaking in an official capacity. A person is deemed to be speaking in an official capacity when the speaking engagement arises because of the position held by the official or employee, involves matters within that official's or employee's official responsibilities, and involve matters which the speaker's public agency would normally provide and for which the official or employee would be subject to expense reimbursement.

If the official or employee is in their official capacity, they are prohibited from accepting anything of value for such speech. Anything of value encompasses virtually any thing, the notable exceptions are printed or promotional material not to exceed ten dollars in value, items of less than ten dollars in value containing or displaying promotional material, or a personalized plaque or trophy not to exceed one hundred and fifty dollars. Generally, a gift item of less than ten dollars in value containing the logo of the organization would not be prohibited. The State Ethics Commission has advised that officials or employees may accept meals which are incidental to the speech and which are available to all persons in attendance at the speech.

As a result of changes resulting from the passage of H4070 which took effect January 12, 1995, public officials and employees may receive payment or reimbursement for travel expenses incurred in giving a speech. The expenses are to be reasonable and are to be incurred in a reasonable time and manner to accomplish the speaking engagement. If the speech involves out-of-state travel, prior written approval from the chief agency executive is required.

HOW DO YOU FILE A COMPLAINT?

The State Ethics Commission is authorized to accept complaints from any person alleging a violation of the Ethics Reform Act. The filing of a complaint must be accomplished on a Complaint Form which is available

from the Commission.

The Ethics Act also provides that the Commission, if it receives sufficient information, may file a complaint on its own motion. Such information must be supplied to the staff attorney or investigator in such detail as the staff can determine that an apparent violation has occurred. The Commission, by policy, provides that such information may not be anonymous but rather the complainant provide their name, address, and telephone number. The information will not be revealed to the public or the Respondent after a complaint is filed by the Commission.

All complaints are confidential until the Commission takes final action. The Act provides that the wilful release of confidential information about a complaint is a misdemeanor and subject to a fine of not more than one thousand dollars.

If the Commission determines that a complaint is groundless, the complaint is stricken from public record. However, all other complaint matters are public record upon final disposition by the Commission. The Respondent (person against whom a complaint is lodged) may waive confidentiality.

INFORMAL OPINIONS

The Commission staff will issue an informal opinion in response to a written request from a person covered under the Ethics Reform Act. An informal opinion is the opinion of Commission staff based on the Commission's prior published opinions, but it is not binding on the Commission. Generally, an informal opinion will not be released to a person other than the requestor. If confidentiality is requested, the requestor's name along with other identifying information can be withheld from the opinion.

The Commission staff will not issue an informal opinion about prior conduct of the requestor, matters in litigation, or matters which in the opinion of staff are more appropriately resolved by formal opinion of the full Commission. Informal opinions are reserved for prospective application to a real or hypothetical statement of facts. The relevancy of any Commission opinion is entirely dependent on full disclosure of all material facts.

You may request an informal opinion by writing Ms. Kelly J. Golden, Legal Counsel, at the Commission offices. Faxes are accepted. Verbal informal opinions will be issued within the discretion of the staff and can be requested by calling the Commission office at (803) 253-4192 or fax (803) 253-7539.

**LOBBYIST AND LOBBYIST'S PRINCIPAL
SPENDING**

According to reports filed with the State Ethics Commission, lobbyists reported having spent \$4,069,195 from September 16, 1994 through March 31, 1995. The lobbyist's principals reported having spent \$4,806,425 during the same period.

The top three lobbyists in earnings were James P. Fields, Jr. with a total of \$134,446 from Laidlaw Environmental Services, Sterling Smith of Independent Colleges and Universities of SC who reported \$83,188, and Lloyd Hendricks of SC Bankers Association with a figure of \$54,671.

Laidlaw Environmental Services reported the top expenditures by a lobbyist's principal with a total of \$252,060. Blue Cross and Blue Shield of SC reported

\$109,077 while the SC Soft Drink Association spent \$100,688. All forms from the lobbyists and lobbyist's principals are available for public inspection at the State Ethics Commission.

ADVISORY OPINIONS

SEC AO95-013

MAY 16, 1995

MARRIAGE OF INCUMBENT STATE EMPLOYEES

Marriage of incumbent state employees, neither of whom are in a supervisory position to the other, is not in conflict with State law prohibiting nepotism.

STATE HOLIDAY

The State Ethics Commission will be closed on July 4 for observance of Independence Day.

State Ethics Commission

P.O. BOX 11926
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STATE DOCUMENTS